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February 22, 2023

Mitsugi v. Jung, No. 1:22-cv-8025-LGS

Dear Judge Schofield:

Pursuant to the Court's Order dated February 15, 2023 (Dkt. No. 33), Robert Ryuichi Mitsugi ("Petitioner") and Eunji Jung ("Respondent") (together, the "Parties") respectfully submit this joint status letter updating the Court with respect to the following: (i) what fact discovery remains to be taken; (ii) the status of mediation and (iii) a joint proposal for the modification of any deadlines.

I. **Discovery**

A. **Document and Written Discovery Requests**

The Parties made progress on discovery when Petitioner was representing herself *pro se*. Specifically, as noted in the Parties' December 29, 2022 joint letter (Dkt. No. 25), the Parties produced documents relating to the family court proceedings in Japan. Additionally, on January 20, 2023, Petitioner served on Respondent an Amended Set of Interrogatories, Requests for Production and Requests for Admission. Respondent produced documents to Petitioner in response to these requests, but has yet to respond to the Interrogatories or Requests for Admission.

Recently-retained counsel for Respondent has reviewed the Parties' document production to date, aside from a number of documents that counsel received this week. Additionally, Respondent plans to take further discovery required to support her anticipated pre-motion letter for summary judgment. As such, on February 20, 2023, Respondent served Requests for the Production of Documents from Petitioner, and Respondent also intends to serve Interrogatories and Requests for Admission on Petitioner this week. Additionally, Respondent is in the process of translating several additional documents she intends to produce and rely upon in her defense.

B. Expert Discovery

When proceeding *pro se*, Respondent planned to call her attorney in Japan, Mr. Jehun Kim, as her expert on Japanese law. However, Respondent no longer anticipates calling Mr. Kim as an expert witness; instead, Respondent is in the process of engaging an expert that did not serve as Respondent's counsel in the underlying Japanese proceedings and has more experience opining as an expert on Japanese family law. While Respondent is willing to provide the Court with a list of potential Japanese law experts from which the Court can select a neutral expert, Respondent maintains that she requires her own expert to support her anticipated motion for summary judgment. Respondent believes the Court can resolve this case at the summary judgment stage because Respondent asserts that Mr. Mitsugi has no custody rights under Japanese law. Thus, Respondent is also in the process of engaging an expert that can speak to issues pertinent to available defenses to alleged Hague Convention violations including, the grave risk defense.¹

Petitioner has disclosed an expert, Mr. Kaoru Haraguchi, and plans to produce Mr. Haraguchi's Rule 26(a)(2) report next week. Given the change in counsel, however, Petitioner remains open to providing the Court with (a) the name of one neutral expert agreed upon by both Parties, or (b) a list of neutral experts from which the Court can determine who will serve this matter.

C. Depositions

On January 20, 2023, Petitioner noticed the deposition of Respondent, which the Parties are in the process of scheduling. On February 13, 2023, Respondent noticed the depositions of Petitioner and his expert, Mr. Haraguchi, which the Parties are also in the process of scheduling. In the event that a neutral expert is not chose by the Court, Petitioner will notice the expert of Respondent's choosing once said expert has been disclosed.

II. Status of Mediation

The Parties participated in a mediation discussion on February 21, 2023. While mediation appears unlikely, the Parties remain in discussions regarding settlement.

III. Joint Proposal for the Modification of Deadlines

In light of the anticipated forthcoming discovery, the Parties respectfully request that the Court extend the existing deadlines in this case as follows:

¹ While Petitioner consented to the remaining portion of the letter, Petitioner withheld his signature for this filing because he objected to the inclusion of this sentence and the prior sentence. Petitioner stated his position as follows: "[Mr. Mitsugi] find[s] it inappropriate and unwarranted to include theories of the case, opinions, or any factual arguments". (Email from Imani Tisdale to Charlotte Rothschild, Feb. 22, 2023).

<u>Current Deadline</u>	<u>New Deadline</u>	<u>Description</u>
February 27, 2023	March 24, 2023	Close of fact discovery
N/A	March 24, 2023	Close of expert discovery
March 29, 2023	April 26, 2023	Case management conference

Respectfully Submitted,

By: _____

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By: /s/ Kathleen E. Young _____

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VIA ECF